

EXHIBIT A

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In The Matter Of:

*St. Clair Intellectual, Property Consultants v.
Canon, Inc., et al.*

*Hearing
September 16, 2004*

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE
ST. CLAIR INTELLECTUAL,)
PROPERTY CONSULTANTS,)
INC.,)
Plaintiff,)
v.) C.A. No. 03-241 (JLF)
CANON, INC., et al.,)
Defendants.)
Thursday, September 16, 2004
1:00 p.m.
Courtroom 4B
844 King Street
Wilmington, Delaware
BEFORE: THE HONORABLE JOSEPH J. FARNAN, JR.
United States District Court Judge
APPEARANCES:
RICHARDS, LAYTON & FINGER
BY: FREDERICK L. COTTELL, III, ESQ.
and
ROBINS, KAPLAN, MILLER & CIRESI, LLP
BY: RONALD J. SCHUTZ, ESQ.
BY: JAKE M. HOLDREITH, ESQ.
BY: BECKY R. THOMPSON, ESQ.
BY: CARRIE M. OLAMBERT, ESQ.
BY: KIMBERLY G. MILLER, ESQ.
Counsel for the Plaintiff

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APPEARANCES CONTINUED:
MORRIS, NICHOLS, ARSHT & TUNNELL
BY: JULIA HEANEY, ESQ.
and
KRAMER, LEVIN, NAFTALIS & FRANKEL, LLP
BY: JOHN E. DANIEL, ESQ.
BY: DONALD L. RHOADS, ESQ.
ASHBY & GEDDES
BY: JOHN G. DAY, ESQ.
and
HOGAN & HARTSON, LLP
BY: STEN A. JENSEN, ESQ.
BY: STEVEN J. ROUTH, ESQ.
Wilmington, Delaware 19801
for the Defendant Fuji

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[1] THE CLERK: All rise.
[2] THE COURT: All right. Be seated, [3]
please.
[4] Good afternoon. [5] Okay. We're here
for the pretrial [6] conference in 03-241
pursuant to Rule 16(c). The [7] parties
have submitted a proposed pretrial or-
der, [8] which I've reviewed.
[9] And this conference won't be the [10]
final pretrial conference, because there-
's some [11] matters that the parties still
have to work on [12] prior to com-
mencement of trial. I'm going to go [13]
through a list of the issues that I believe
have [14] to be addressed before we can
commence trial.
[15] And then I'll take any questions [16]
that the parties might have to clarify the
items [17] that I'll be reviewing.
[18] First, there are, I don't know, 35 [19] or
40 motions that are pending. I have
resolved [20] them all.
[21] And after this pretrial conference, [22]
some of the — I think almost all of the [23]
decisions are in order form or mem-
orandum of [24] order form. They'll be
available for the parties

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[1] to have.
[2] I think there might be one or two [3]

that I redrafted. But essentially all the [4]
motions have been resolved that were
pending.

[5] In that regard, one of the motions [6] by
St. Clair was to try the case with both [7]
defendants. The defendants answered
that early [8] on in the case. I had said that
I was going to [9] separate the defe-
ndants, Fuji and Canon, and so [10] I've
denied St. Clair's motion. There will be a
[11] separation of the defendants for trial.
[12] I'm going to take the suggestion [13]
under [14] advisement that St. Clair might
have as to who [15] you would want to
proceed against first, whether [16] it be
Canon or Fuji.

[17] MR. SCHUTZ: Your Honor, we would
[18] prefer to proceed against Canon first.

[19] THE COURT: All right. Then Canon
[20] will be the first defendant.

[21] Now, in the earlier discussion, I [22]
had talked about, just for the record, I
mean [23] that ruling was in Docket Item
158. I had talked [24] about the second
trial would occur immediately

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[1] after the first trial. Some scheduling [2]
difficulties might not allow that.

[3] But it won't be very long after the [4]
first trial. We might have to make some [5]
adjustment in the date of the com-
mencement of [6] that trial.

[7] And it will be by separate jury. [8] Not
the same jury that hears the Canon case.

[9] I wanted to address claim [10] con-
struction. A few weeks ago, I issued my
claim [11] construction, and I want to
make it clear, [12] because some of the
motions deal with this, that [13] at both
trials the only claim construction that [14]
is permitted to be referred to is the claim
[15] construction in my August order.

[16] No party is permitted to refer to [17]
any contention of claim construction
undertaken [18] by another party or by an
expert that might have [19] been given
prior to my order. So for purposes of [20]
both trials, the only reference can be to
the [21] claim construction now in place.

[22] That may require defendants, both
[23] Canon and Fuji, to have their experts
obviously [24] alter what they'll present.
But I don't want to

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[1] see any documents at the trial or any
requests [2] for testimony from any
witness about what a party [3] might have
believed the claim construction was [4]
before my order was issued. The claim [5]
construction is what it is now.

[6] With regard to the trial, once we [7] can
address the issues that I'm going to go [8]
through this afternoon, I'll be able to
allocate [9] time, beginning with the

Canon trial, for each [10] side. But I'm not
prepared to do that today, [11] because of
some of the matters that I want you to [12]
take up.

[13] I'm going to start with the — and [14]
I'll give you some general reference to
the [15] pretrial order. Page 5, Paragraph F,
that [16] statement there that the parties
have not listed [17] those exhibits that
may be used solely for [18] purposes of
cross-examination, impeachment, or [19]
rebuttal.

[20] If an exhibit isn't listed in the [21]
pretrial order, it has no use at trial. I don't
[22] need you to categorize your intention
as to use, [23] but you've got to list all
exhibits that would be [24] used at the
trial.

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[1] The whole idea of a civil pretrial [2] is
so that there are no surprises to either
side [3] about what might be coming into
the record. So [4] that will have to be
cured.

[5] Additionally, Paragraph H, no [6] ex-
hibit will be admitted into evidence
unless [7] identified in this order or unless
leave of Court [8] is obtained. That should
be a period after [9] identified in this
order, because there's not [10] going to be
any legal course.

[11] Just as I told you about exhibits, [12]
generally, unless it's other than dem-
onstrative [13] exhibits, and exhibits that
may be used solely [14] for purposes of
cross-examination, impeachment or [15]
rebuttal, I've already addressed that. But
let [16] me address the reference to the
demonstrative [17] exhibits.

[18] As you know, demonstrative exhibits
[19] are controlled in their admission by
the rules. [20] There's not a real clear
recitation of how [21] demonstrative
exhibits are to be handled.

[22] There is an article out that was in [23]
one of the professional pieces of liter-
ature back [24] in November of 2000, and
I've followed this

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[1] before that article, and of course, since
that [2] article.

[3] And since it says, Only Federal [4] Rules
of Evidence 611(a) comes close to [5]
addressing the use of the demonstrative
evidence [6] in exhibits. The Court shall
exercise reasonable [7] control over the
mode and order of interrogating [8]
witnesses and presenting evidence, so as
to; one, [9] make the interrogation and
presentation effective [10] for the as-
certainment of the truth; and two, [11]
avoid needless time, needless con-
sumption of [12] time.

[13] And then it goes on to talk about [14]
they left this issue broad by stating use of
[15] demonstrative evidence and the

many other [16] questions arising during the course of a trial [17] can be solved only by the Judge's common sense [18] and fairness in view of the particular [19] circumstances.

[20] Well, as you all know, patent cases [21] are very complex. You're trying this case to a [22] jury.

[23] My practice is this: The parties, I [24] think, are advantaged by the use of demonstrative

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[1] exhibits during the course of a patent trial.

[2] However, it becomes very difficult [3] for trial judges to balance in fairness what [4] exhibit gets in, and what exhibit doesn't get in.

[5] And because, even though you've been [6] with the case for a year or two, you don't have [7] the sense of the case that a lawyer might who [8] might be strategically making an effort to use an [9] exhibit that truly might be unfair to the other [10] side.

[11] So in this case, with the patent [12] claims we have at issue, and the technology, I'm [13] going to require that, for demonstrative exhibits [14] to be admitted into the record, both sides have [15] to agree.

[16] So there will be no demonstrative [17] exhibits in the record unless both sides agree [18] that the demonstrative exhibits are going to go [19] into the record.

[20] If you don't agree, then it's no [21] problem. You can still use demonstratives at the [22] trial, but what I'll do is, and I have to say [23] it's somewhat arbitrary, I'll examine any [24] objected to demonstratives for fairness and bias.

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[1] And I'll do the best I can. Again, [2] I think it's better if you can agree to what to [3] admit and what exhibits you want admitted.

[4] If you can't, you can still use [5] them. They won't be in the record.

[6] And if you object to the other [7] side's, then I'll take a look at them and give [8] you my best common sense decision on that day.

[9] In the opening statement, [10] demonstratives are typically used, whether by [11] agreement or by the other process I talked about.

[12] I'm going to limit opening [13] statements in this case. Once we do the work [14] about exhibits and witnesses to a certain amount [15] of time in the opening statement, there shouldn't [16] be any argument.

[17] Lawyers have the understanding, I [18] guess, that opening statements have sort of [19] expanded to something more than

an outline of [20] your evidence. I don't need to hear an objection [21] about argument.

[22] I'm going to listen very carefully, [23] and I'm going to interrupt the lawyer who I think [24] is arguing, and tell him to return to the purpose

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[1] of the opening statement. I don't want to do [2] that, because that starts to put me into the [3] case. But if you can't follow the clearly [4] understood guidelines of what an opening [5] statement should be, I'm not going to make the [6] other side stand up and object and wait for a [7] ruling. I'll get into it.

[8] So demonstratives in your opening [9] statement, but don't argue. Outline your [10] evidence, what your witnesses will testify to, [11] and the issues, and stay away from recitations of [12] the law. You should save that for closing [13] argument.

[14] Now, in the order, you — let's talk [15] about that.

[16] This procedure, and there's some [17] times and dates. Bottom line for me is if this [18] case is going to start on the 27th, if you have [19] completed all your exchanges that you contemplate [20] in this paragraph and others by the Friday before [21] at 5:00 p.m., that will satisfy me.

[22] If that's, again, an effort to let [23] the lawyers control the trial of their case, if [24] you can't agree to that, then all you have to do

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[1] is let me know and I'll weigh in. It will be an [2] earlier date, though because I'm not going to [3] wait that long.

[4] If I have to make a decision, I'm [5] going to have to schedule a hearing for you and [6] get involved in that.

[7] Now, once we have an adequate [8] witness list, I'm satisfied if each side that is [9] on for direct advises the other side 48 hours in [10] advance of who's testifying.

[11] 48 hours ends at the 9:00 a.m. time. [12] So from 9:00 a.m., get back up to 9:00 a.m.

[13] And you should, also, at the same [14] time, provide a copy of the exhibits to be used [15] with that witness. Now, that's during the course [16] of the trial.

[17] That's after you complete, the [18] Friday before we start your total exchange. And [19] then as your case goes on, you want to move [20] things around, you want to adjust exhibits, [21] you'll have that 48-hour window to be noticed if [22] you're on the receiving end. And you'll have to [23] prepare 48 hours in advance if you're on the [24] presenting end.

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[1] There's a reference here in [2] Paragraph J on Page 6 to animations, model [3] simulations being produced by September 22nd. [4] That's the midpart of the week before the trial.

[5] That's acceptable to me, but if [6] there — I'm not sure what an investigation [7] entails. And I don't want to be dealing with [8] objections during the course of the trial.

[9] So I'm going to put a deadline on [10] objections at four o'clock on the 24th. Now, [11] does anybody think that that's not long enough to [12] take a look at whatever is being proposed?

[13] And, of course, those kinds of [14] exhibits are demonstrative exhibits in my book. [15] So you know, they'll fall under that first [16] rubric.

[17] But is that enough time to object?

[18] **MR. SCHUTZ:** Yes, Your Honor.

[19] **MR. DANIEL:** Yes, Your Honor.

[20] **MR. SCHUTZ:** One clarification. If [21] we don't agree on it being admissible to the [22] jury, might we otherwise use it for illustrative [23] purposes?

[24] **THE COURT:** That's what I said.

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[1] **MR. SCHUTZ:** Right.

[2] **THE COURT:** If you can agree, then [3] you can admit them in evidence, and they can go [4] to the jury.

[5] **MR. SCHUTZ:** Got you.

[6] **THE COURT:** If you can't agree, then [7] they can only be used for illustrative purposes [8] subject to objection for bias and fairness.

[9] **MR. DANIEL:** Thank you.

[10] **THE COURT:** And you'll present those [11] exhibits pre — before the commencement of trial. [12] And I'll look at each one here in the courtroom, [13] and I'll tell you it's in or out based on what [14] the other side argues about the lack of fairness, [15] and what it presents, or the bias.

[16] Of course, it's undue bias that it [17] would — or undue prejudice that it would bring [18] to the case.

[19] All right. And these are things [20] that I always have to address, and they go [21] through the remaining paragraphs.

[22] I looked at the witness list, and I [23] know that those witnesses aren't coming to [24] testify, all of them, either live or by

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[1] deposition. I used to have a rule that if you [2] didn't present 80 — I forget what it was — 80 [3] or 90 percent of what you listed, you suffered a [4] sanction. And that was before we timed trials.

[5] So I think people would put people [6] on for one minute just to get to the 80 or 90 [7] percent. So that was a stupid rule.

[8] Then we went to — after I was in [9] Pittsburgh, I found out you could actually time [10] trials. I came back and we started timing [11] trials, and that's what controls the witness [12] list.

[13] But what's happened in patent cases [14] is that timing solves the courtroom problem, but [15] it doesn't solve the preparation problem for the [16] other side.

[17] So I don't want to be the one that [18] orders that you're limited to "X" number of [19] witnesses. I don't want to do that.

[20] I will do that if you can't get [21] these witnesses lists pared down. So you know, I [22] know there's got to be a little bit of [23] strategizing in — you know, in your own camps. [24] So, you know, if you want to list 18 people, but

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[1] you know you're only going to call 15 or 14, [2] that's okay. But the lists as they are now, [3] there's no way those people are coming.

[4] So I would, again, have to weigh in [5] if you can't pare them down to a reasonable [6] number that fall within the possibility of being [7] called at trial. I'll just give you a number, [8] and you know, it's not going to be a large [9] number.

[10] So you're better off pairing down [11] your list and resubmitting it at the second [12] pretrial conference, so that I can feel [13] comfortable that the other side is not being [14] disadvantaged by having to prepare for a whole [15] lot of people that are never showing up.

[16] Same thing applies to exhibits. [17] This is a jury trial.

[18] If an exhibit is admitted, it goes [19] to the jury. Are you all trying to confuse them, [20] or are you all trying to get your story to them [21] so that they understand it?

[22] You've got to pair down the exhibit [23] list. Otherwise, I'll put a number on it.

[24] That — in my experience, typically

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[1] go — exhibits go to a jury that are actually [2] admitted into evidence. Again, I don't want to [3] do that, because I think, again, it causes me to [4] become an advocate sort of, which I don't want to [5] do.

[6] So you've got to pair down your [7] witness lists substantially. And you've got to [8] pair down your exhibit lists substantially.

[9] And they have to be in with the [10] thought that this is a jury trial, and who are [11] you really going to call? And what are you [12] really going to admit into the

record that's [13] going back to that jury room?

[14] And in that regard on witness lists, [15] in a civil case that's pretried, absent some true [16] surprise, and I'm talking about a Perry Mason TV [17] type surprise, like someone that was dead walks [18] into the doors of the courtroom, and here they [19] are, but we're all surprised. You've got to list [20] the witnesses, rebuttal, whatever they are.

[21] I know there's going to be shifting [22] burdens here, because of the defenses. But [23] everybody has got to list all their witnesses [24] within that reduced pared down witness list.

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[1] In the order, you talk about [2] rebuttal, impeachment are accepted, but they're [3] not accepted.

[4] You've got to give notice. You [5] don't have to designate them as that, but you've [6] got to give notice of the name and other [7] identifying information.

[8] The other matter — well, I'm going [9] to leave that open, because you've got a lot to [10] do.

[11] And — but I do think we need to do [12] some work on the issues, because I think we ought [13] to have a good idea of what the legal issues are [14] before the trial commences, so that you can work [15] both in your opening and through your [16] presentation with what's ultimately going to be [17] the jury instructions.

[18] And the jury instructions are, at [19] this point, unacceptable as are the recitation of [20] the legal issues, at least, in my view, based on [21] what I know about the case. But I'm going to [22] hold off on that conversation until you get [23] through these other tasks.

[24] Okay. They're the items that I had

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[1] from my first review of your — oh, there's one. [2] There's a language in the exhibits "created at [3] trial".

[4] Now, an exhibit created at trial, [5] what I think you're saying is I'm going to take [6] the board. I'm going to take the witness. And [7] I'm going to go through the testimony, and for [8] illustrative purposes, write it down.

[9] I think that's a great trial [10] technique, but do the board with the witness [11] before you get here, and show it to the other [12] side. And then you can do that technique with [13] the jury. But the other side ought to know [14] exactly what's going to be on that sheet of paper [15] if you're going to do the creation of exhibit at [16] trial technique.

[17] Again, this is a complex civil case [18] and pretrying it means that there really aren't [19] going to be any surprises. And

that's all I [20] have.

[21] All right. Does the plaintiff have [22] an idea of, and then I'll ask Canon, when we can [23] get back together again when this work could be [24] accomplished?

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[1] **MR. SCHUTZ:** Your Honor, we will be [2] moving out here on Monday. So everybody on the [3] trial team will be here Tuesday.

[4] We're at the Court's disposal after [5] that. I think, what, a couple days to work with [6] Canon?

[7] And can we just limit our work to [8] Canon? I know there are issues of both.

[9] **THE COURT:** Yeah. Fuji right now is [10] — I'm sure they're going to protest about this, [11] but they're sort of put on the side for now.

[12] I really want this to be — since [13] you selected Canon — I mean, St. Clair and [14] Canon — Fuji can certainly observe. But we're [15] right now dealing with St. Clair and Canon.

[16] How about for Canon?

[17] **MR. DANIEL:** Your Honor, we would be [18] prepared to work with them in the next few days. [19] And I suppose we meet next — is Wednesday good?

[20] **THE COURT:** Let me just get the [21] calender up here. Are you going to be in town, [22] also?

[23] **MR. DANIEL:** Yes.

[24] **THE COURT:** Okay. Do you want to —

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[1] why don't we do this: You want to come over on [2] the 22nd, which is Wednesday, and I'll make it [3] later in the day, that way you have that day to [4] work with each other.

[5] Do you want to come over at, like, [6] 4:30?

[7] **MR. SCHUTZ:** We're at your disposal, [8] Your Honor.

[9] **THE COURT:** 4:30 on Wednesday the [10] 22nd, we'll have a second pretrial conference [11] that will address the matters that I've raised [12] here today.

[13] Here, Debbie. [14] All right. Anything else on behalf [15] — as I said, you are going to be getting the [16] order on the pending motions. They're done.

[17] Anything else on behalf of St. [18] Clair?

[19] Canon?

[20] **MR. DANIEL:** Your Honor, something [21] you mentioned earlier about not making reference [22] to contentions about claim construction.

[23] **THE COURT:** Yes.

[24] **MR. DANIEL:** I assume that that

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[1] excludes if we have to explain what people [2] thought about the claims at Canon when they were [3] analyzing them years ago?

[4] THE COURT: Oh, yes.

[5] MR. DANIEL: Yeah. Okay.

[6] THE COURT: What I've let slide a [7] little bit, and you know, it's a — I reconciled [8] it September 1 is that at trial sometimes — I've [9] been in trial with St. Clair before. They did [10] not do this, to my recollection, in the prior [11] case.

[12] But some patent lawyers when they're [13] successful on their claim construction want to [14] take what the other side was arguing to me and [15] then attempt to impeach the expert. That's what [16] I'm talking about.

[17] But actually, I've allowed your [18] design around evidence. So I think it was [19] your — maybe it was Fuji.

[20] MR. DANIEL: Both.

[21] THE COURT: Both. Yeah.

[22] So that would be what you understood [23] the patent to be would be allowed. I'm talking [24] about directly examination of witnesses directly

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[1] on the contentions, or in this case in the [2] briefing in the arguing of the claims.

[3] MR. DANIEL: That's what I assumed. [4] I just wanted to make sure it's clear.

[5] THE COURT: Yeah.

[6] MR. DANIEL: One other question, [7] Your Honor. How much time will we have for [8] trial?

[9] And I know you've issued the order, [10] but where did we come out collectively in the [11] bifurcation?

[12] THE COURT: I didn't issue the order [13] on trial time. I said at the beginning of this [14] conference, that I hadn't done that yet, and I [15] wasn't going to do it until I have you back [16] again.

[17] St. Clair and yourself, if I recall, [18] were between 30 and 40 hours for each side.

[19] MR. SCHUTZ: No, Your Honor. I [20] believe in a unified trial, we had proposed 30 as [21] one defendant we think.

[22] THE COURT: That's what I'm saying.

[23] MR. SCHUTZ: Oh, yeah. Oh, yeah.

[24] THE COURT: What I read was —

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[1] MR. SCHUTZ: Yes.

[2] THE COURT: — that there was 30 and [3] then the other side had said 40 or, roughly [4] that. Isn't that right?

[5] MR. DANIEL: We said 40, but I think [6]

also on a bifurcated basis. That was going to [7] exclude damages.

[8] THE COURT: Right. Both of you are [9] probably wrong on what I'm going to give you.

[10] But I don't want to allocate time [11] until I get you back here and see the work you've [12] done on the witnesses, because I really do look [13] at witness lists, and the exhibit list, and I try [14] to be reasonable.

[15] So I haven't set an amount of time [16] yet.

[17] MR. DANIEL: But was there any [18] bifurcation or not?

[19] THE COURT: No.

[20] MR. DANIEL: No. Thank you.

[21] THE COURT: I'm sorry. What was [22] your question?

[23] MR. DANIEL: That was my question, [24] and it ties into how much time.

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[1] THE COURT: It was a long [2] explanation. There's no bifurcation willfulness [3] in yours.

[4] It was willfulness, liability and [5] damages. It's all in.

[6] And in Fuji, they wanted to have the [7] damages put aside, but there's some recitation in [8] the order about judicially common. In this case, [9] I haven't been convinced that that would be of [10] any assistance.

[11] And I'll be candid with you, when I [12] looked at your defenses, I mean, I'm not adverse [13] to take infringement separately, invalidity [14] separately and damages separately. But when I [15] looked at your defense and I saw what evidence [16] the parties were talking about, there's so much [17] that just has interplay to it, that I'm just [18] going to let it all go to a jury. That way I [19] don't have to worry about parsing them fairly.

[20] MR. DANIEL: Just one other [21] question. That is, that since we're going [22] forward, I assume you denied the motion regarding [23] Mirage and the subject matter jurisdiction?

[24] THE COURT: At this point, yes.

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[1] MR. DANIEL: Okay. And —

[2] THE COURT: And we're talking about [3] the ownership.

[4] MR. DANIEL: The ownership.

[5] THE COURT: And so let me just say, [6] yes, I have.

[7] MR. DANIEL: Okay. Because what we [8] would then ask is that the ownership issue now [9] become a further defense in the case as would be [10] typical when you have a dispute over ownership.

[11] THE COURT: That's what I figured

[12] was going to happen.

[13] MR. DANIEL: Okay. So that when [14] we're talking about pairing down the number of [15] witnesses, we know that that's in the case, and [16] we have to account for it.

[17] THE COURT: Why don't you do this: [18] Look at all the orders, because there's like 40 [19] of them, or 30 something of them.

[20] MR. ROUTH: Mm-hmm.

[21] THE COURT: And if you have any [22] questions that you want me to clarify those [23] orders along the lines you're asking now, I'll be [24] happy to even get with you on the phone before we

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[1] get to the 22nd.

[2] MR. DANIEL: Wonderful. Thank you [3] very much, Your Honor.

[4] MR. ROUTH: Your Honor, Steve Routh [5] for Fuji. I understand what the Court said about [6] scheduling.

[7] I take it from the Court's comments, [8] we will likely go to trial in October. We have, [9] in addition to witnesses from Japan, translators [10] to hire and change the dates.

[11] Is there anymore guidance the Court [12] can give us about what is likely to be the [13] timing, if not absolutely certain at this point?

[14] THE COURT: I can't because I don't [15] know the timing of this trial. That's my [16] problem.

[17] You all wanted to be separate.

[18] MR. ROUTH: Yes.

[19] THE COURT: St. Clair wanted you to [20] be together. You knew from the beginning that [21] being separate meant you were coming after — [22] whether it was you or Canon, somebody was coming [23] after the first trial. And I don't have the [24] first trial in order yet to my satisfaction.

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[1] So it's hard, but I'm giving you a [2] long explanation, because I want you to [3] understand my thinking. By next Wednesday, I [4] should be in a better position to give you some [5] target dates.

[6] MR. ROUTH: We will likely be here [7] as an observer, as the Court put it, for those [8] upcoming conferences. I want the Court to be [9] aware, there is, as I am sure you're already [10] aware, a fair amount of contracting and [11] logistics, that if we get as much advance notice [12] as possible, we'd appreciate it.

[13] THE COURT: We had the same with the [14] Sony case folks coming over, and I think we were [15] able to accommodate. You know, if you need some [16] change, I have time to do it.

[17] And if I don't have time, we have a [18] procedure here where we do two trials a day.

[19] **MR. ROUTH:** Mm-hmm.

[20] **THE COURT:** And it works out fine.
[21] If you need a serious accommodation to your [22] witness or something, I can even put part of the [23] trial on that kind of a schedule.

[24] So I think we'll be able to assist

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[1] you to your satisfaction of timing the trial.

[2] **MR. ROUTH:** Thank you very much, [3] Your Honor.

[4] **THE COURT:** All right. I hope any [5] way.

[6] All right. I used to like to say [7] I'm here all the time. I get the same check at [8] the end of the month.

[9] So it works. We'll be able to help [10] you out.

[11] **MR. ROUTH:** One of the real [12] difficulties is the translators, you're getting [13] Japanese translators for a week. They're now [14] going to be released for the week of the 27th.

[15] Obviously, we need to get her locked [16] in as soon as we can.

[17] **THE COURT:** I understand. You're [18] going to have cross-translation; right?

[19] **MR. SCHUTZ:** Yes.

[20] **THE COURT:** So you have the same [21] problem.

[22] **MR. SCHUTZ:** We just need to extend [23] that, and that will be the — one of the first [24] phone calls we make.

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[1] **MR. ROUTH:** Thank you.

[2] **THE COURT:** We'll be able to work [3] that out for you.

[4] Okay. Anything further?

[5] **MR. DANIEL:** No, Your Honor.

[6] **THE COURT:** Fuji, anything else?

[7] **MR. ROUTH:** Nothing more, Your [8] Honor.

[9] **THE COURT:** All right. Thank you [10] very much.

[11] And we'll see you on the 22nd at [12] 4:30.

[13] **THE CLERK:** All rise.

[14] (Court was adjourned at 1:37 p.m.)

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State of Delaware)
New Castle County)

CERTIFICATE OF REPORTER

I, Heather M. Triozzi, Registered Professional Reporter, Certified Shorthand Reporter, and Notary Public, do hereby certify that the foregoing record, Pages 1 to 30 inclusive, is a true and accurate transcript of my stenographic notes taken on September 16, 2004, in the above-captioned matter.

IN WITNESS WHEREOF, I have hereunto

set my hand and seal this 17th day of September, 2004, at Wilmington.

Heather M. Triozzi, RPR, CSR

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Lawyer's Notes
